

Memorandum

To: Mayor Spehar & County Commissioners
From: Bob Shillinger, Asst. County Attorney *BS*
Date: May 13, 2005
Re: May 2005 litigation report
Cc: Tom Willi, County Administrator
Richard Collins, County Attorney

**CASES FILED AGAINST THE COUNTY SINCE LAST MONTH'S REPORT --
none**

CASES CLOSED SINCE LAST MONTH'S REPORT

Charles, Marie v. Monroe County **EEOC 150-2005-00083**
EEOC Miami **Date Filed: 10/15/04**
Allegations of civil rights violation due to discrimination on national origin.
Community Services/Transportation

Status: 90 day right to sue period expired 4/30/05.

Next Activity: Closed.

Time: 12.5 **Costs:** 15.00

Monroe County v. Holly Grace Blandeaux **SC K 05-69**
Small Claims **Judge: Fowler** **Date Filed: 3/23/05**
Code enforcement fine collection authorized by BOCC on 7/14/04. \$684.88

Current Status: DF paid fines and costs on 4/13/05.

Next Activity: CLOSED.

Time: 3.1 **Costs:** \$84.64

Monroe County v. Joseph Sutton **CA K 05 (TBA)**
Circuit Court (16th) **Judge: (none yet)** **Date Filed:**
Collection action authorized by BOCC on 6/18/03. Fine @\$18,000.00.

Current Status: 4/20/05 BOCC approved release of lien due to hardship.

Next Activity: CLOSED.

Time: 2.8 hour **Costs:** \$100.00

GENERAL LITIGATION

Clay, Robert Lee, John & Li Chiung Moyant v. Monroe County CA M 04-05

Circuit Court 16th

Judge: Jones

Date Filed: 01/05/04

Mandamus Petition/takings case regarding Big Pine properties. Mayor served 1/8/04. **Growth Management.**

Status: Court approved settlement agreement.

Next Activity: Awaiting dismissal by Petitioners.

Time: 7.4

Costs: None

Collins, Thomas et al v. Monroe County

CA M 04-379

Circuit Court 16th

Judge: Payne

Date Filed: 11/22/04

Takings action brought by 11 groups of plaintiffs.

Growth Management; CAY co-counsel with Freilich, Leitner & Carlise.

Status: Discovery.

Next Activity: Summary Judgment motion 6/21/05.

Time: 61.7

Costs: 0.00

Drewing, Janice v. Monroe County

3D 04-3044

Third DCA

Judges: TBA

Date Filed: 11/29/04

Appeal of denial of writ of mandamus in personnel matter.

Community Services/Social Services

Current Status: Awaiting decision by Court.

Next Activity: Awaiting decision by Court.

Time: 31.4

Costs: 15.00

Drewing, Janice v. James Roberts as County Administrator CA K 04-686

Circuit Court 16th

Judge: Jones

Date Filed: 6/25/04

Mandamus action seeking hearing in personnel dispute between plaintiff and her supervisor Louis Latorre. **Community Affairs/Social Services**

Current Status: Drewing appealed Circuit's denial of writ to Third DCA.

Next Activity: Stayed pending appeal.

Time:

19.5

Costs:

0.00

Evans, Brian v. Monroe County **04-CIV-10033-JLK**

U.S. Dist., S.D. Fla. (Key West) Judge: King

Date Filed: 5/6/04

Civil action against the County, and others, arising from actions of Sheriff's office in publicizing the rescission of a warrant it had obtained for his arrest. **MCSO**

Current Status: Evans appealed to 11th Circuit Court's award to County & Sheriff of \$4579.00 in attorney's fees for filing frivolous suit.

Next Activity: Collection not stayed by appeal.

Time: 9.5

Costs: 0.00

Fed. Nat'l Mortg. Assoc. v. M. Coleman, Monroe County, et al, CA K 05-171

16th Circuit

Judge: Jones

Date Filed: 2/18/05

Mortgage foreclosure case where County holds an inferior interest to bank due to \$1928 in **Article V liens** imposed against a person claiming interest in the property. Mayor served 2/28/05. **PJM**

Current Status: Bank's motion for summary judgment granted 4/25/05. County's answer filed @ 3/21/05. County's lien preserved.

Next Activity: Sale set for mid June 2005.

Time:

2.5

Costs: 0.00

Florida Keys Citizens Coalition v. State & Monroe County DOAH 04-2756

DOAH

Judge: Carolyn Holifield

Date Filed: 08/05/04

Administrative Rule challenge to agreement with State. **Growth Management**

Current Status: Proposed final orders submitted 1/28/05.

Next Activity: Awaiting decision by Administrative Law Judge.

CAY Time: 178.6 **See also entry under Johnson, Anselmo, et al.**

Monroe County v. Florida Detroit Diesel

SC K 05 -60

County Court (Sm. Claims) Judge: Fowler

Date Filed: 3/14/05

Collection action seeking reimbursement for \$4,905.00 in clean up costs associated with improperly installed machinery. **PJM**

Fleet management/Risk Management

Current Status: Discovery.

Next Activity: Trial July 18, 2005.

Time: 5.8

Costs: \$275.00

Monroe County v. Mark Fraleigh **CAP 03-647**

Circuit Court (16th) **Judge: Garcia** **Date Filed: 12/8/3**

Ejectment action against owner of structures located on County right-of-way.

Public Works.

Current Status: Discovery ongoing.

Next Activity: Move for summary judgment.

Time: 20.7 **Costs:** NONE

Neuman, Kenneth v. Monroe County **CA K 04-663**

Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/04**

Action for damages and to compel County to issue building permits for property on Big Pine. County settled similar suit in April. Mayor served 6/25/04.

Growth Management CAY serving as co-counsel.

Status: Discovery phase.

Next Activity: Discovery.

CAY Time: 5.8 **See also entry under Johnson, Anselmo, et al.**

Nunziant, Marilyn v. Monroe County **CA K 04-1227**

Circuit Court 16th **Judge: Jones** **Date Filed: 11/18/04**

Suit over admission practices at Bayshore Manor seeking to invalidate practice of requiring family members to subsidize those who can't afford the full rate.

Community Services/Social Services; Mayor served 11/19/04.

Status: Answer filed, discovery.

Next Activity: Depositions to be set.

Time: 58.6 **Costs:** 0.00

PBP Marina, Inc. v. Monroe County **CA K 02-561**

Circuit Court (16th) **Judge: Payne** **Date Filed: May 2002**

Cert. Petition appeal from denial of rezoning on Geiger Key Marina.

Growth Management

Current Status: 4/20/05, BOCC granted rezoning request.

Next Activity: Await dismissal if not challenged by 5/21/05.

Time: 29.0 **Costs:** none to date

Riverview Consultants, Inc. v. Monroe County **CA K 05-373**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/13/2005**
Tortious interference with contract case arising from Airport security director's
termination of a consultant subcontract. **PJM**
Airport

Status: Plaintiff gave mandatory 6 month notice of claim on April 8, 2005.

Next Activity: File responsive pleading once served.

Time: 3.0 **Costs:** 0.00
See also entry under Johnson, Anselmo, et al.

Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al **CA M 04 404**
Circuit Court (16th) **Judge: Payne** **Date Filed: 12/16/04**
Declaratory judgment action by property owners seeking half of a road
purportedly abandoned by County and then quitclaimed to City of Marathon
which was subject of litigation in 2002.
Public Works

Status: Depositions held 4/18/05.

Next Activity: Hearing on County's motion to dismiss 6/28/05.

Time: 9.2 **Costs:** \$133.00

Tuttle, David, Peter Rosasco & Harley Evans v. Monroe County **CAM 04-243**
Circuit Court 16th **Judge: Payne** **Date Filed: 6/30/04**
Action for damages and to compel County to issue building permits for property
on Big Pine. County settled similar suit in April. **Growth Management**

Status: Settled; 3 of 4 releases issued.

Next Activity: Dismissal if DCA doesn't object to permits.

Time: 3.0 **Costs:** 0.00

Walgreens & Gadinsky v. Monroe County **CA K 05-266**

16th Circuit

Judge: Taylor

Date Filed: 3/11/05

Petition for certiorari review of DOAH administrative order upholding 1 of 6 findings supporting denial of major conditional use application for redevelopment of Big Pine Scotty's into Walgreens. **Mayor served 5/2/05.**

Growth Management

Current Status: Will be handled in house. Drafting responsive pleading

Next Activity: Response due 5/23/05.

Time: 7.1 **Costs:** 0.00

POTENTIAL CASES THAT HAVE NOT BEEN FILED

Lloyd Good v. Monroe County

CA K 05 -----

Circuit Court (16th)

Judge:

Date Filed:

On 11/24/03, the County was served with notice of a claim under the Bert J. Harris Act regarding two parcels of property owned by Lloyd Good.

Growth Management.

Current Status: Settlement discussions underway.

Next Activity: None. Stayed during Good's application for major conditional use.

Time: 8.6 hours **Costs:** \$5.56

Harum, James v. Monroe County, DOH, & Z. Krstic

CA P 05 TBA

Circuit Court (16th)

Judge:

Date Filed:

Threatened action for injunctive relief to compel County to prosecute code enforcement violation against Zivadin Kristic by his neighbor James Harum. County had already scheduled the code enforcement hearing for May 2005 prior to receiving notice of suit. Statute requires 30 days notice prior to filing action.

Current Status: None until suit is filed; underlying code case set for hearing 5/26/05.

Next Activity: Move to dismiss and for sanctions if filed since w/o merit.

Time: 2.4 **Costs:** \$0.00

CODE ENFORCEMENT APPEALS

Decker, Harry v. Monroe County **3D05-305**

Third DCA **Judges: TBA** **Date Filed: 2/14/05**

Appeal of circuit court's decision upholding Code Enforcement Special Magistrate's decision finding property owner in violation of OSTDS ordinance.

Growth Management/Code Enforcement

Status: County filed Response 4/8/05.

Next Activity: Await Court's ruling.

Time: 7.1 **Costs:** 15.00

Decker, Harry v. Monroe County **CA K 01-1252**

Circuit Court 16th **Judge Payne** **Date Filed: 10/5/01**

This is an appeal of a code enforcement OSTDS case.

Current Status: Decker appealed this decision to Third DCA on 2/14/5.

Next Activity: None, pending appeal. See 3D-05-305.

Time: 19.0 hours **Costs:** none

Eads, Barbara v. Monroe County **CAP 03-117**

Circuit Court 16th **Judge Garcia** **Date Filed: 2/27/03**

This is a code enforcement appeal of the special master's order finding the Lowe House to be in unsafe condition and setting forth a compliance schedule.

Status: Appeal stayed pending review by HPC.

Next Activity: Status check 6/1/05.

Time: 3.6 hours **Costs:** none

Fuchs, Walburga v. Monroe County **CA K 01-1251**

Circuit Court (16th) **Judge Miller** **Date Filed: 10/5/01**

This is a code enforcement appeal of an OSTDS case.

Current Status: The County's brief filed.

Next Activity: Await Court's decision.

Time: 11.5 hours **Costs:** none

Monroe County v. Lanes, George & Denise **CA M 04-310**
Circuit Court (16th) **Judge: Jones** **Date Filed: 9/15/04**
Appeal of decision regarding elevation requirements for replacement structure.
PJM

Current Status: Briefs completed

Next Activity: Oral Argument 5/18/05.

Time: 10.0 hours **Costs:** none

Stevenson, MK v. Monroe County **CA K 02-257**
Circuit Court 16th **Judge Payne** **Filed: 2/26/02**
Appeal of a finding that Caribbean Village storage sign was an off premises sign.

Current Status: Orders of dismissal from 3D DCA entered March 2 & 7, 2005.

Next Activity: File Motion for Corrected Mandate.

Time: 32.4 hours **Costs:** none

CODE ENFORCEMENT FORECLOSURES/COLLECTIONS

Monroe County v. Mario Alfonso **CA K 03-1458**
Circuit Court (16th) **Judge: Jones** **Date Filed: 12/08/03**
Code enforcement foreclosure action authorized by the BOCC on 6/18/03.
Fine fixed at \$91,450.00.

Current Status: Settled for \$15,000.00 plus 10% interest.

Next Activity: Awaiting sale by DF.

Time: 24.7 hour **Costs:** \$151.70

Monroe County v. Matthew Bonnett **CA K 05 TBA**
Circuit Court (16th) **Judge: TBA** **Date Filed: TBA**
Code enforcement lien collection action authorized 10/17/04. **PJM**
As of 5/1/5, \$150/day fine exceeded \$78,000.00.

Current Status: Demand letter prepared.

Next Activity: Serve demand letter.

Time: .5 **Costs:** 0.00

Monroe County v. Dirk Damrau **CA K 05 (TBA)**
Circuit Court (16th) **Judge: (none yet)** **Date Filed:**
Code enforcement foreclosure action authorized by the BOCC 6/18/03. Fine was \$169,900.00 as of 7/18/03 and accruing at \$200.00 per day.

Current Status: Compliance achieved.

Next Activity: File suit.

Time: 2.2 hour **Costs:** none to date

Monroe County v. William L. Davis **CA P 04-181**
Circuit Court (16th) **Judge: Garcia** **Date Filed: 4/15/04**
Action to collect \$27,600.00 code enforcement fine from former owner of property who fraudulently sold property to innocent owner. DF in Federal prison.

Current Status: Final Judgment of \$28,431.00 entered 4/13/05.

Next Activity: Record Judgment with State, collection.

Time: 6.2 hour **Costs:** \$21.00

Monroe County v. Reinaldo Delgado & Lourdes Nunez **CA P 05 TBA**
County Court (Civil) **Judge: Ptomey** **Date Filed: TBA**
Collection action authorized by BOCC on 6/16/04. Fine set at \$6600.00.

Current Status: Researching issues raised by owners re: timely compliance.

Next Activity: Status check 6/1/5.

Time: 2.0 **Costs:** 0.00

Monroe County v. Dan Gleason **SC P 03 - 165**
Small Claims Court **Judge: Ptomey** **Date Filed: 8/5/03**
Small claims action for a money judgment to collect \$520.00 in unpaid code enforcement fines and costs authorized by the BOCC in April of 2003.

Current Status: Final judgment registered w/ Dept. of State.

Next Activity: Continue w/ enforcement proceedings.

Time: 9.5 hours **Costs:** \$65.92

Monroe County v. Marshall Golnick **CC K 05-86**
County Court **Judge: Fowler** **Date Filed: 3/21/05**
Collection action authorized by BOCC on 6/16/04. Fine set at \$11,300.00.

Current Status: Settled for \$8000.00 in 3 monthly payments.

Next Activity: DF to make 3 payments on 5/31, 6/30, & 7/31/05.
responsive pleading.

Time: 10.0 **Costs:** \$575.00

Monroe County v. Jack Hagopian, **CA P 03-529**
Circuit Court (16th) **Judge: GARCIA** **Date Filed: 10/1/03**
Code enforcement collection action authorized by BOCC on 8/20/03. Fine was \$203,100.00 as of 9/30/03 and accruing at \$250.00 per day.

Current Status: Motions.

Next Activity: Motion to dismiss Third Party complaint 4/13/05, awaiting ruling.

Time: 14.7 **Costs:** \$20.00.

Monroe County v. Dorothy Hough, et al. **CA P 05-160**
Circuit Court (16th) **Judge: Garcia** **Date Filed: 4/6/05**
Code enforcement collection action authorized by BOCC on 9/17/03. As of 9/25/03 lien valued at \$25,050.00 and accruing at \$50.00 per day.

Current Status: Suit filed; two DFs served; Discovery.

Next Activity: DF Dianne Hough's Answer is due 5/19/05; DF Barry Hough's Answer due 5/23/05; Diane's Interrogatory Answers due 6/6/05.

Time: 5.6 **Costs:** \$330.00

Monroe County v. James Jeanquenat **CA P 05 -----**
Circuit Court (16th) **Judge:** **Date Filed:**
Code Enforcement collection action authorized by BOCC on 4/21/04. As of that date, the fine was \$136,100.00 and accruing at \$500.00 per day.

Current Status: Negotiating with owner.

Next Activity: Status check 6/1/05.

Time: .7 **Costs:** none

Monroe County v. Key Largo Ocean Resorts Coop, Inc. **CA P 96-260**

Circuit Court (16th) Judge Garcia Date Filed: 5/20/96

This is an action to foreclose a code enforcement lien.

Current Status: Revised development agreement application being reviewed by Growth Management.

Next Activity: Status report due 6/1/05.

Time: 36.6 hours **Costs:** \$340.00

Monroe County v. Pedro Liz **CA K 05 420**

Circuit Court (16th) Judge: Jones Date Filed: 4/22/2005

Code enforcement collection action authorized by BOCC on 7/17/03 & 9/17/03. Total fines as of 4/27/05, \$816,300.00.

Current Status: Complaint filed.

Next Activity: Serve DF.

Time: 3.2 **Costs:** \$555.00

Monroe County v. Jean M. Louis & Itnor Corp. **CA K 05 TBA**

Circuit Court (16th) Judge: TBA Date Filed: TBA

Code enforcement lien collection action authorized by BOCC on 10/17/04. Fine set at \$34,200.00. **PJM**

Current Status: Owners not complying with settlement agreement approved by BOCC on 4/20/05.

Next Activity: File foreclosure action if not resolved.

Time: 1.5 **Costs:** 0.00

Monroe County v. Lily Marks **CA K 03-1152**

Circuit Court (16th) Judge: Jones Date Filed: 10/2/3

Collection action of 2 code enforcement liens. Final Judgment entered in the amount of \$795,270.00.

Current Status: Final judgment entered for \$795,270.00 5/9/05.

Next Activity: Collection, if not appealed.

Time: 8.3 **Costs:** \$20.00

Monroe County v. Arthur Mehr (TBA)
Circuit Court (16th) Judge: (none yet) Date Filed: TBA
Code enforcement foreclosure action that was authorized by the BOCC 6/18/03.
Fine had reached \$28,380 on 7/18/03 and continues to accrue at \$20 per day.

Current Status: Title search complete.

Next Activity: File suit.

Time: 2.1 hour Costs: \$150.00

Monroe County v. Blair & Althea Mooney CA K TBA
Circuit Court (16th) Judge: TBA Date Filed: TBA
Code lien collection action authorized by BOCC on 10/17/04.
Fine fixed at \$146,100.00. PJM

Current Status: Negotiating with owners' counsel.

Next Activity: Presentation of settlement offer at June BOCC meeting.

Time: .5 hour Costs: \$0.00

Monroe County v. Outland Properties CA P 05 TBA
Circuit Court (16th) Judge: Garcia Date Filed: TBA
Code lien collection action authorized by BOCC on 10/17/04.
As of 5/1/05, \$500 daily fine exceeded \$225,000.00. PJM

Current Status: Demand letter drafted.

Next Activity: Serve demand letter.

Time: .5 hour Costs: 0.00

Monroe County v. Rodriguez, Federico et al CA K TBA
Circuit Court (16th) Judge: TBA Date filed: TBA
Code lien collection action authorized by BOCC on 10/17/04. PJM

Current Status: \$7,500 settlement approved by BOCC 4/20/05.

Next Activity: Finalize paperwork, then close file.

Time: 1.5 hours Costs: 0.00

Monroe County v. Safe Harbor Marine Railway Corp. **CA K 05 (TBA)**

Circuit Court (16th) **Judge: (none yet)** **Date Filed:**

Code enforcement foreclosure action that was authorized by the BOCC 6/18/03.
As of 1/1/4, lien totaled \$106,700.00.

Current Status: Title search complete.

Next Activity: Draft complaint.

Time: 1.5 hour

Costs: none to date

**CASES BEING LITIGATED BY OUTSIDE COUNSEL
(other than Morgan & Hendrick)**

Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.

Monroe County v. Bender & Associates, et al **CA K 03 915**

Circuit 16th **Judge: Jones** **Date Filed: 8/4/03**

Suit filed against Bender & Associates, D.L. Porter Constructors, Inc., Security Impact Glass Holdings, L.L.C., and Preservation Services, Inc. for breach of contract and negligent misrepresentation arising from the defective design, fabrication, and/or installation of the windows in the Gato building.

Status: Discovery ongoing.

Next Activity: Hearing on motion to dismiss to be set.

Fees billed to date: \$45,121.00 **Costs:** \$5,675.68

Monroe County v. Lodge Construction, et al. **CA K 00-617**

Circuit 16th **Judge: Payne** **Date Filed: 5/11/2000**

Suit filed against general contractor Lodge Construction & its surety for breach of contract to build Gato Building.

Status: Reserved on appeal November 24, 2004. New trial granted.
Mandate issued 2/16/05.

Next Activity: Set for trial.

Fees billed to date: \$298,015.26 **Costs:** \$71,523.81

Bob Freilich & Tyson Smith

Collins, Thomas et al v. Monroe County **CA M 04-379**

Circuit Court 16th **Judge: Payne** **Date Filed: 11/22/04**

Takings action brought by 11 groups of plaintiffs.

Growth Management

Status: Discovery.

Next Activity: Motion for Summary Judgment hearing 6/21/05.

Fees billed to date: \$55,429.49

Johnson, Anselmo Murdoch Burke & George

Bauknight, Skaggs & Rockett v. Monroe County **CA P 04-451**

Circuit Court 16th **Judge: Garcia** **Date Filed: 9/24/04**

Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.

Growth Management

Status: Federal Court remanded to state court.

Next Activity: Action on hold pending appeal in 11th Circuit.

Fees billed to date: \$832.24 **Costs:** 0.00

Bauknight, Skaggs & Rockett v. Monroe County **04 CV 10105**

U.S. D.C. S.Fla. **Judge: Moore** **Date Filed: 11/1/04**

Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.

Growth Management

Status: Federal Court remanded to state court. Attorney's fee motion appealed to 11th Circuit

Next Activity: None.

Fees billed to date: none **Costs:** 0.00

Bauknight, et al. v. Monroe County**TBA****11th Cir. Ct. of Appeals Judges: TBA Date Filed: 2/11/05**

Appeal of denial of attorney's fees motion filed against the County by takings case plaintiffs. County had removed the case to Federal Court; plaintiffs sought remand and attorneys fees. Case was remanded to state court but fees denied. Plaintiffs are seeking between \$15,000 and \$18,000 in fees.

Growth Management

Status: Appellate mediation held 4/11/05, no resolution.

Next Activity: Respond to Appellant's brief.

Fees billed to date: None.

Florida Keys Citizens Coalition v. State & Monroe County DOAH 04-2756**DOAH Judge: Carolyn Holifield Date Filed: 08/05/04**

Administrative Rule challenge to agreement with State to fund purchases of environmentally sensitive lands, provide permits for workforce housing, etc; CAY serving as co-counsel.

Growth Management

Status: Recommended final order filed 1/28/05.

Next Activity: Awaiting decision of Court.

Fees billed to date: \$59,464.92

Moore, Russell v. Monroe County**CA P 04-452****Circuit Court 16th Judge: Garcia Date Filed: 9/24/04**

Mandamus/Inverse condemnation/takings case filed for one lot on Big Pine. Mayor served on 10/4/4. **Growth Management**

Status: Dismissed by Plaintiff with Prejudice.

Next Activity: Close file once final billing received.

Fees billed to date: \$499.50.

Neuman, Kenneth v. Monroe County **CA K 04-663**

Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/04**

Action for damages and to compel County to issue building permits for property on Big Pine. CAY serving as co-counsel.

Growth Management

Status: Discovery.

Next Activity: Discovery.

Fees billed to date: \$2,326.92

Riverview Consultants, Inc. v. Monroe County **CA K 05-373**

Circuit Court 16th **Judge: Jones** **Date Filed: 4/13/2005**

Tortious interference with contract case arising from Airport security director's termination of a consultant subcontract. League of City's carrier counsel.

Airport/MCSO

Status: Plaintiff gave mandatory 6 month notice of claim on April 8, 2005.

Next Activity: File responsive pleading once served.

Fees billed to date: none.

Purdy, Jolly & Giuffreda, P.A.

Evans, Brian v. Monroe County **04-CIV-10033-JLK**

U.S. Dist., S.D. Fla. (Miami) **Judge: King** **Date Filed: 5/6/04**

Civil action against the County, and others, arising from actions of Sheriff's office in publicizing the rescission of a warrant it had obtained for his arrest. **MCSO**

Current Status: Court awarded County & Sheriff \$4579.00 in attorney's fees against Evans for filing frivolous suit & denied Evan's motion to stay enforcement of judgment pending appeal.

Next Activity: Collection.

Fees billed to date: none **Costs:** 0.00

Evans, Brian v. Monroe County, et al. **CIV S 04-1042 LRH**
U.S.D.C. Nevada **Judge: Jones** **Date Filed: 7/28/04**
Same allegations as prior case which were brought in Nevada. **MCSO**

Current Status: Evans has appealed dismissal by Court.

Next Activity: Court denied County's motion for attorney's fees 4/18/05.

Fees billed to date: none **Costs:** 0.00

Evans, Brian v. KW Citizen, Monroe County, et al **CV S 04-1742-KJD-LRL**
U.S.D.C. Nevada **Judge: Dawson** **Date Filed: 1/6/2005**
Latest suit by chronic litigant/lounge singer claiming that he was defamed by
misstatements by MCSO employee printed in Key West Citizen.
MCSO

Status: Evans dismissed case on 2/11/05. Evans states he will refile.

Next Activity: Await service.

Fees billed to date: none **Costs:** 0.00

Evans, Brian v. MCSO, Monroe County, et al. **04-17429**
9th Circuit Court of Appeals **Judges: TBA** **Date Filed: 12/09/2004**
Appeal of Nevada Court's dismissal of suit in CIV S 04-1042 LRH.

Status: County's brief filed 4/20/05.

Next Activity: Evan's reply brief is past due, extension denied by Court.

Fees billed to date: none **Costs:** 0.00

Evans, Brian v. MCSO, Monroe County, et al. **05-10077-B**
11th Circuit Court of Appeals **Judges: TBA** **Date Filed: 1/5/2005**
Appeal of award of attorney's fees against Evans for filing a frivolous lawsuit.
MCSO

Status: Appeal filed. Carrier counsel (Purdy) will defend appeal.

Next Activity: Evans brief.

Fees billed to date: none **Costs:** 0.00

The Smith Law Firm

Monroe County v. Post Buckley, Schuh, and Jernigan CA K 95-402

Circuit Court (16th) Judge: Payne Date Filed: 3/30/95

Malpractice claim against the County's former engineering firm for miscalculation of bonds necessary to finance improvements to Card Sound Road.

Public Works

Current Status: Set for re-trial, 6/6/05.

Next Activity: Closed session at 5/18/05 BOCC meeting.

Fees billed to date: \$337,714.55

**Vernis & Bowling of the Florida Keys, P.A.
Case Update -April 5, 2005**

GAP Properties of SW Florida-I, Inc. v. Monroe County CA K 04-1321

Circuit Court (16th) Judge: Payne Date Filed: 12/10/2004

Certiorari review of administrative action involving dock failure to obtain plat approval due to subdividing and an improper change of use without a major or minor conditional use permit.

Growth Management

Status: Pleadings completed.

Next Activity: Reschedule oral argument.

Fees billed to date: \$25,595.00 **Costs:** \$250.00

Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry CA K 04-224

Circuit Court (16th) Judge: Jones Date Filed: 3/2/04

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications that have been rejected MCC 9.5-49.

Growth Management

Status: Only 1 of 5 counts remain.

Next Activity: Hearing for Motion for a More Definite Statement 6/21/5.

Fees billed to date: \$32,290.50 **Costs:** \$1,831.69.

Monroe County v. Mary Boza, **CA K 03-1508**

Circuit Court (16th) Judge: Jones Date Filed: 12/18/03

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Current Status: Default judgment entered 5/11/05.

Next Activity: Sale set for July 2005.

Fees billed to date: none.

Monroe County v. Alain Y. Depierrefeu, **CA K 03-1504**

Circuit Court (16th) Judge: Jones Date Filed: 12/18/2003

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Current Status: Clerk's default entered on 3/21/05.

Next Activity: Hearing on final default judgment 5/17/05.

Fees billed to date: none.

Monroe County v. Alain Y. Depierrefeu, **CA K 03-1507**

Circuit Court (16th) Judge: Jones Date Filed: 12/18/2003

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

Current Status: Clerk's default entered on 3/21/05.

Next Activity: Hearing on final default judgment 5/17/05.

Fees billed to date: none.

Monroe County v. Mary Ellen Lloyd, **CA M 03-362**

Circuit Court (16th) Judge: Jones Date Filed: 12/19/03

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

The total amount of the lien owed to the County is \$143,500.00.

Current Status: Compliance achieved 8/31/2004.

Next Activity: Settlement negotiations complicated by DF's health issues.

Fees billed to date: None.

Monroe County v. James Messera, et al **CA K 03-1509**
Circuit Court (16th) **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.

Current Status: Owners working on compliance.

Next Activity: Settlement discussions.

Fees billed to date: none.

Monroe County v. Joe Posada, III **CA K 03-1503**
Circuit Court (16th) **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.

Current Status: Settlement discussions.

Next Activity: Status check 6/1/05.

Fees billed to date: none.

Monroe County v. Virginia Sawyer & Tony Welters **CA K 03-1505**
Circuit Court (16th) **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Current Status: Attorney for some of Defendant's negotiating settlement.

Next Activity: Status check 6/1/05.

Fees billed to date: none.

Monroe County v. Virginia Sawyer **CA K 03-1506**
Circuit Court (16th) **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03..

Current Status: Attorney for the defendants negotiating settlement.

Next Activity: Status check 6/1/05.

Fees billed to date: none.

Monroe County v. Louis Welters **CA K 04-639**
Circuit Court (16th) **Judge: Jones** **Date Filed: 6/14/2004**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

Current Status: Attorney for the defendants negotiating settlement.

Next Activity: Status check 6/1/05.

Fees billed to date: None.

Osborn, Jeff v. Monroe County **CAP 04-564**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
1 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management.

Status: Motion to dismiss denied 5/9/05.

Next Activity: File Answer by 5/24/05.

Fees billed to date: \$10,013.50 **Costs:** \$60.00

Osborn, Jeff v. Monroe County **CAP 04-565**
Circuit Court 16th **Judge: Garcia** **Date Filed 11/24/04**
2 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management.


Status: 5/9/05, motion to dismiss granted with leave to refile.

Next Activity: Osborn must refile by 6/9/5; County must respond by 6/29/05.

Fees billed to date: \$1,932.00 **Costs:** 0.00.

MEMORANDUM

TO: Richard

FROM: Suzanne 

DATE: May 3, 2005

SUBJECT: Recap of services provided April 2005

APRIL 2005

Department	Cont / Amend	Lease / Amend	Res	Ord	Memos	Ltrs	RFP	Mtgs	Deed
Airport							1		
Arts Council									
BOCC		1	5		3				1
Clerk of Court									
Community Services	1				1				
Construction Management									
Emergency Comm.	1				1	1			
Emergency Management	1								
Employee Benefits	1								
Finance									
Group Insurance									
Growth Management (BLD, PLN, CDF)	2								
Housing			3						
Land Authority									
Marine Resources	2					1			
Municipalities	1		1						1
OMB	4		2						
Personnel	2								
Property Appraiser								1	
Public Safety	1								
Public Works (ENG, CMD, FMS, PFM, RDS)	12	1			1	1	1		
Purchasing									
Road Abandonment			1						
Risk Management									
Social Services	1		1			3			
Solid Waste	1								
Tax Collector									
TDC	4					2		1	
Tech Services	1								
Other									
TOTALS	35	2	13		6	8	2	2	2